

## **Tennessee Real Estate Commission (TREC)**

The answers provided are based on statutes, rules, fees and policies in effect on the date of publication (December 2003) and are subject to change. Licensees are responsible for being familiar with changes in requirements. All changes in statutes, rules, policies and fees are published in the TREC newsletter, Tennessee Real Estate News-Journal. A copy of the newsletter is sent to every licensee.

### **SECTION A. TREC OFFICE LOCATION, MAILING ADDRESS, OFFICE HOURS and WEBSITE**

#### **Where is the TREC office located and what is the mailing address?**

The office location and mailing address:  
Tennessee Real Estate Commission  
Davy Crockett Tower  
500 James Robertson Parkway, Suite 180  
Nashville, Tennessee 37243-1151

#### **What are the normal business hours of the TREC office?**

The office is open 8:00 AM until 4:30 PM Central Time Monday-Friday. The office is closed on all federal and state holidays.

#### **What are the telephone and fax numbers for the TREC?**

The Telephone number is: (615) 741-2273 or 1 (800) 342-4031  
The FAX number is: (615) 741-0313

#### **What is the TREC website address?**

[www.state.tn.us/commerce/boards/trec](http://www.state.tn.us/commerce/boards/trec)

#### **How can I obtain needed forms?**

The TREC website is an excellent source of information and TREC forms are available by contacting the TREC office during regular business hours. Many forms can be Faxed or Emailed to you. Listing, contract, association or federal forms are not available.

### **SECTION B. ACTIVITIES THAT REQUIRE A LICENSE, LICENSED AND UNLICENSED ASSISTANTS, REAL ESTATE LICENSEES FROM ANOTHER STATE CONDUCTING BUSINESS IN TENNESSEE, HOME BUILDERS REPRESENTATIVE, AUCTIONEER REAL ESTATE LICENSING, ATTORNEY, UNLICENSED ACTIVITY**

**What activities require a license?**

The activities are defined in TCA, Title 62-13-102(3). The solicitation, negotiation, listing, sale, purchase, exchange, and lease of real estate require a license. (See statute for complete list)

**I am an affiliate broker (or affiliated broker). What can my unlicensed assistants do?**

Personal assistants are generally thought of as unlicensed persons performing various functions as employees (including clerical support) or independent contractors of a real estate broker or salesperson within the framework of a real estate transaction.

While the following list does not define every permitted or prohibited activity, it does provide reasonable guidelines to follow:

**AN UNLICENSED EMPLOYEE, ASSISTANT OR SECRETARY MAY:**

1. Answer the phone, forward calls and give information contained only on the listing agreement as limited by the broker;
2. Fill out and submit listings and changes to any multiple listing service;
3. Follow up on loan commitments after a contract has been negotiated and generally secure status reports on the loan progress;
4. Assemble documents for closing;
5. Secure public information from courthouses, utility districts, etc;
6. Have keys made for company listings;
7. Write ads for approval of licensee and Principal Broker and place classified advertising;
8. Receive, record and deposit earnest money, security deposits and advance rents under the direct supervision of the Principal Broker;
9. Type contract forms for approval by licensee and Principal Broker;
10. Monitor licenses and personnel files;
11. Compute commission checks;
12. Place signs on property;
13. Order repairs as directed by the licensee;
14. Prepare fliers and promotional information for approval by licensee and Principal Broker;
15. Deliver documents and pick up keys;
16. Place routine telephone calls on late rent payments;
17. Schedule appointments for licensee to show listed property;
18. Gather information for a comparative market analysis (CMA);
19. Hand out objective, written information on a listing or rental;
20. Give a key to a prospect or unlock property; or
21. Disclose the current sales status of a listed property.

**AN UNLICENSED EMPLOYEE, ASSISTANT OR SECRETARY MAY NOT:**

1. Make cold calls by telephone or in person to potential listers or purchasers;
2. Show properties for sale and/or lease to prospective purchasers;
3. Host public open houses, licensee open houses, home show booths or fairs;
4. Answer questions concerning properties listed with the firm except only that information contained on the listing agreement as limited by the Principal Broker;
5. Prepare promotional material or advertising of properties for sale or lease without the approval of the Principal Broker;
6. Discuss or explain listings, offers, contracts, or other similar matters with persons outside the firm;
7. Be paid on the basis of real estate activity; such as percentage of commission, or any amount based on listings, sales, etc.;
8. Act as a "go-between" with a seller and buyer such as when an offer is being negotiated.
9. Negotiate or agree to any commission split or referral fee on behalf of a licensee.

**I am an affiliate broker (or affiliated broker). Can I pay an unlicensed assistant?**

Unlicensed assistants can be paid by the affiliated licensee for all clerical and secretarial activities conducted on behalf of the employing licensee. An unlicensed assistant cannot be compensated for the performance of duties that require a license.

A person engaged in activities that require a license must have a valid active license, be affiliated with the firm where the licensee is affiliated for whom he/she is acting as an assistant. Compensation received for activities that require a license must be paid by the licensed real estate firm where the assistant is affiliated.

**I have a licensed assistant. How can I pay him/her for activities that require a license?**

A person engaged in activities that require a license must have a valid active license, be affiliated with the firm where the licensee is affiliated for whom he/she is acting as an assistant. Compensation received for activities that require a license must be paid by the licensed real estate firm where the assistant is affiliated.

**I have been asked by a new home builder to act as a salesperson for him/her. Since he/she owns the homes, do I need an active real estate license to sell for the builder?**

Yes, salespersons engaged or hired by new home builders are required to be licensed. You must be affiliated with a licensed real estate firm and conduct your

business through the firm. The builder cannot avoid the requirement by paying a salary or hourly compensation.

**I am a licensed auctioneer. I have a real estate license and I am affiliated with ABC realty. I own a separate licensed auction firm, The Auction Company, licensed by the Tennessee Auctioneer Commission. Can I sell real property at auction using my real estate license and my auction firm license?**

NO, you can only sell real property through the licensed real estate firm where you are affiliated. Your licensed auction firm could sell real property only if it obtained a new real estate firm license. A real estate firm license must have a principal broker. You would then need to transfer your license to the new real estate firm in order to be able to act as a real estate agent for the The Auction Company.

**I am licensed in another state. Can I visit Tennessee to list or sell real estate and “partner” or “cooperate” with a Tennessee licensee in order to avoid obtaining a Tennessee real estate license?**

NO, a real estate licensee from another state or jurisdiction cannot “cooperate” or “partner” with a Tennessee licensee in order to conduct business that requires a real estate license in this state without obtaining a license issued by the Tennessee Real Estate Commission (TREC). TREC will accept an application from non-resident applicants from any state. TREC also has reciprocal agreements with many states.

A licensed Tennessee broker may pay a commission to a licensed broker of another state provided such non-resident broker does not conduct in this state any of the negotiations for which a commission is paid . See: 62-13-302.

**A lawyer has contacted me and wants to make a referral and receive a referral fee from my firm. Can I pay him a referral fee?**

A lawyer can only receive a referral fee or participate in the commission if he/she is properly licensed as a real estate broker or affiliate and the compensation is paid to him by the firm where he is affiliated.

**I am an active licensee affiliated with a real estate firm. A friend of mine has a house for rent. My firm does not do rental management. I want to handle the property for my friend. Can I manage the property since I am licensed?**

No, you can only engage in activities that require a license through the firm where you are affiliated. Rental management and leasing of real property are activities that require a license. You could only manage the property as an agent

of the firm where you are affiliated. Your firm would manage the property through a management contract with the owner.

## **SECTION C. LICENSING PROCEDURES, TESTING, CONVICTIONS,**

### **How do I obtain a real estate license in Tennessee?**

Licensure information is contained in a booklet provided by PSI Examination Services (PSI). The booklet is available by [clicking here](#).

### **What could keep me from obtaining a Tennessee Real Estate License?**

The Commission very carefully examines all applications. Applicants who have been convicted of, pled nolo contendere to, pled guilty to or been granted first offender treatment upon being charged with any criminal offense other than a traffic violation or applicants who have held professional licenses which have been disciplined are thoroughly scrutinized. If you have a history of any of the above, you may seek a preliminary decision from the Commission prior to spending time and money taking the pre-licensing course and the examination by completing the "Application for Decision Regarding Prior Criminal Conviction(s) and/or Disciplinary Sanction(s)" ([click here for the form](#)) and submitting it to the Commission with required backup documentation. The Commission will review what is submitted and provide you with a preliminary decision concerning whether a license may be granted based on what is submitted.

### **What do I need to send the Commission along with my application?**

Documents required for an affiliate broker's license:

- **Application with picture** - this is obtained at the testing center upon successful completion of the examination and must be further completed by applicant and broker for whom you will be working,
- **Proof of high school graduation or equivalency**- this can be a copy of your high school transcript, or a copy of your high school or college diploma, or a copy of a GED certificate, or a copy of a college transcript indicating when and where you graduated from high school,
- **Proof of successful completion of the prelicensing course** - certificate awarded at school, or letter from school indicating completion or page in candidate handbook with stamp from school indicating completion of course,
- **Proof of errors and omissions insurance (E&O)** - discuss E&O Insurance with the Principal Broker of the firm where you wish to affiliate. If you wish to purchase the state provided insurance, you should contact the contractor (See Section D) for an application. If your firm uses alternative E&O insurance, your principal broker should provide a "[Certification of Coverage Form](#)" for coverage other than the

Commission's contracted E&O Insurance which must be included with application.

- If you answered "yes" to any of the questions numbered 2, 3, 4, or 5 on the application you must provide information concerning the incident(s),
- Payment of all fees due as follows:
- Application fee \$ 100.00
- Fee for Education and Recovery Fund \$ 30.00

#### **Documents required for a broker's license:**

- **Application with picture** - this is obtained at the testing center upon successful completion of the Tennessee Broker's examination, and
- **Proof of E&O Insurance** (if not already covered as an affiliate, see proof of E&O under affiliate broker)
- Payment of all fees due as follows:
- Application fee \$ 100.00
- Fee for Education and Recovery Fund \$ 30.00

#### **SECTION D. ERRORS AND OMISSIONS INSURANCE**

What are the E&O Pro-Rated Amounts for State Contracted Insurance?

The pro-rated costs for 2006 are \$22.00 if purchased in 11-2006 and \$11.00 if purchased in 12-2006 for the remainder of 2006

The prorated fees for E&O Insurance							
2007				2008			
<u>Jan</u>	\$256.00	<u>July</u>	\$192.00	<u>Jan</u>	\$128.00	<u>July</u>	\$64.00
<u>Feb</u>	\$245.00	<u>Aug</u>	\$181.00	<u>Feb</u>	\$117.00	<u>Aug</u>	\$53.00
<u>Mar</u>	\$235.00	<u>Sept</u>	\$171.00	<u>Mar</u>	\$107.00	<u>Sept</u>	\$43.00
<u>Apr</u>	\$224.00	<u>Oct</u>	\$160.00	<u>Apr</u>	\$96.00	<u>Oct</u>	\$32.00
<u>May</u>	\$213.00	<u>Nov</u>	\$149.00	<u>May</u>	\$85.00	<u>Nov</u>	\$21.00
<u>June</u>	\$203.00	<u>Dec</u>	\$139.00	<u>June</u>	\$75.00	<u>Dec</u>	\$11.00

ALL E&O premiums for the state contracted policy must be sent directly to:

Mailing Address:  
Rice Insurance Services, LLC  
PO Box 6709  
Louisville, KY 40206-0709

Delivery Address:  
Rice Insurance Services, LLC  
4211 Norbourne Blvd.  
Louisville, KY 40206-0709

Phone: 502-897-1876 or 888-248-2444  
Fax: 502-897-7174



Web Site: [www.risceo.com](http://www.risceo.com)

## **SECTION E. DIFFERENCE BETWEEN INACTIVE AND RETIRED LICENSE, REACTIVATION FROM INACTIVE OR RETIRED**

### **What is the difference between an “Inactive” and a “Retired” real estate license?**

If a licensee wishes to cease practicing real estate for any reason, but does not want to relinquish the real estate license, that licensee, in actuality, wants to retire the license. However, if that licensee has not completed an education requirement, the license cannot be retired but is placed in a “holding status” called inactive until that education requirement(s) has been timely completed. This individual cannot practice real estate and does not have to have Errors and Omissions Insurance while inactive but cannot retire the license until the education requirement is met. The two education deficits which keep the license from being retired are: (1) incompleteness of required continuing education for the licensing period when the license was active for 1 or more days; and (2) incompleteness of the broker post licensing education requirement. All of these education requirements must be completed in the required time-frames before the license can be retired.

Please note: a license cannot be inactivated/retired to avoid required education. You must continue to pay the renewal fee to keep the license in retirement.

### **I am an active licensee. How do I determine if I should retire my license or make it inactive?**

The licensee does not make the choice. Whether you are placed in inactive status or retirement depends on whether you have completed education

requirements due to be completed by you. If you have not yet completed the requirements, your license will be placed in an inactive status and you will have until the appropriate education deadline to complete the education. If you have completed all requirements, your license will be placed in the retired status. You must pay the renewal fee to keep your license in retirement.

### **How do I retire my license since I am not currently practicing the profession of real estate?**

If you have completed all education obligations at the time of the request you may complete TREC Form 1, ([available here](#)), in its entirety and submit it to the Commission's Administrative Office to retire your license. If you are an affiliate licensee and have not completed the required 16 hours of continuing education or if you are a broker who has not yet completed the post broker education requirement, your license will be placed in an "Inactive" Status. Your license will remain in the inactive status until you complete your education requirements or the end of the licensing period. Upon completion of the outstanding requirements, your license will automatically be placed in the Retired status. If you fail to complete the requirement by the education deadline, your license will expire and cannot be renewed. Holders of retired and inactive licenses must renew these licenses by paying the license renewal fee.

### **How do I reactivate my real estate license from an inactive or retired status?**

A Change of Status from Inactive or Retired to Active form, TREC Form 1, ([available here](#)), should be completed in its entirety and mailed to the Commission with a check or money order for \$25.00 to cover the processing of the status change. Discuss E&O with your Principal Broker. If you have not previously purchased E&O Insurance for the current licensing period, obtain state E&O insurance and obtain certification (see section C.) or if Firm has alternative E&O coverage, obtain a certification from Principal Broker. Include Certification of Coverage Form with the TREC Form 1. (see Section C)

## **SECTION F. OBTAINING A LICENSE IN ANOTHER STATE, RECIPROCITY, NON-RESIDENT LICENSURE**

### **I am seeking to be licensed in another state or another profession and need Tennessee to provide certification of my real estate license. How do I request this certification?**

The Certificate Request form ([Click Here](#)) is to be completed in its entirety and mailed to the Commission with a check or money order for \$25.00 to cover the processing of the information.



**I have or have held a real estate license in another state and would like to obtain one in Tennessee. How do I go about this licensure?**

[Click here for information concerning this type of licensure](#)

## **SECTION G. EDUCATION REQUIREMENTS: PRE-LICENSE, POST-LICENSE, CONTINUING EDUCATION; EDUCATION CREDITS- HOW TO SEE YOUR FILE, CORE COURSE REQUIREMENT**

### **What are my education requirements?**

#### **Affiliate Brokers**

*Pre-license:* 60 Classroom Principles Course and 30 Hour Course for New Affiliates

*Continuing Education:* 16 hours, Continuing Education- MUST INCLUDE CORE COURSE

#### **Brokers**

*Pre-license:* 120 hours including 30 classroom hour course Office and Brokerage Management

*Post-license:* 120 hours during the first 3 years of licensure

*Continuing Education:* (Brokers licensed as brokers after January 1, 2005, must complete continuing education requirements after completing post-license education, including the core course.)

#### **Timeshare Salespersons**

*Pre-license:* 30 hours of classroom training

*Post-license:* None

*Continuing Education:* None

### **What is a Core Course and why should I take the course?**

The "Core Course" is a specific 4 hour course designated by the Commission which is required to be taken by licensees who must complete the 16 hour continuing education requirement. Licensees should remember that a failure to complete the "Core Course" will prevent renewal of the license even if the licensee completes a total of 16 hours of education.

**I want to take an education course in another state for a designation I am working on. Will I automatically get credit because it was given by the**

## **national association?**

No, all courses must be pre-approved by TREC. You are responsible for insuring that the courses you complete are approved for the requirement you are attempting to meet. The sponsor must apply for course approval prior to the course being given. TREC does not give retroactive credit.

## **How can I check my Education Credits on file with TREC?**

[Click here](#) - then select real estate broker/affiliate license and look up your name. When your basic license information is revealed you may click on your license number and the education we have on file for you will appear.

## **SECTION H. AGENCY, VERBAL AGENCY DISCLOSURE, WRITTEN AGENCY DISCLOSURE**

### **Who must disclose agency?**

Licensees working with unrepresented parties participating in a real estate transaction must verbally disclose their agency position to all unrepresented parties and confirm the agency relationship in writing prior to the preparation of the offer.

### **When must a licensee use a written confirmation of agency?**

Licensees working with unrepresented parties participating in a real estate transaction must verbally disclose their agency position to all unrepresented parties and confirm the agency relationship in writing prior to the preparation of the offer.

## **SECTION I. EARNEST MONEY: TIMELY DEPOSIT, DISPOSITION OF EARNEST MONEY, INTERPLEADER, MAINTAINING DOCUMENTS**

### **How soon after an offer becomes a contract must earnest money be deposited?**

In general, earnest money should be deposited within 72 hours (3 business days) after the offer becomes a contract. Any delay should be documented in the file.

**The buyer failed to close on a real estate purchase. The buyer says the seller failed to provide a satisfactory title and the seller says the title is satisfactory. Both the buyer and seller want the earnest money issued to them. Can I wait until the buyer and seller agree before I take any action?**

## **What is an “Interpleader”?**

The contract should contain the provisions for disposition of the earnest money. Rule 1260-2-.09 Deposits and Earnest Money provides steps for disposition of earnest money and the interpleader form, Rule 1260-2-.34, should be used if needed. Principal Brokers should not wait until an agreement is reached or a complaint filed before they file an interpleader. “Interpleader” is a legal process. The Principal Broker deposits the earnest money with the Sessions Court. The Court will determine who should receive the funds and then disburse the funds.

## **Top ▲ What documents must a principal broker maintain as a part of the firm’s records?**

Firms are required to keep records of all real estate transactions for a period of three years following their consummation. These files must contain, at a minimum, the following:

- Listings
- Offers: (Even offers that did not become contracts)
- Contracts
- Closing statements
- Agency Agreements
- Agency Disclosure Documents
- Property Disclosure Forms
- Correspondence
- Notes:
- Any Other Relevant Information

## **SECTION J. ADVERTISING, OFFICE SIGN, PROPERTY SIGNS, INTERNET ADVERTISING**

What information must appear in all advertising?

Rule 1260-2-.12 ADVERTISING, provides the minimum information that must appear in all advertising. The Firm Name and Firm Phone Number must appear in all advertising.

### **If I advertise on the Internet, must I include my firm name and firm phone number?**

YES, you must include all information required by the advertising rule, 1260-2-.12 ADVERTISING. The information must be included on every “page” directly assessable.

### **What are the signage requirements for a real estate office?**

Every real estate office must have a sign. 62-13-309(b)(1), Business locations- Display of license – Signs, provides the sign requirement.

**What are the requirements for signs placed on property?**

A property sign must have the name of the firm and phone number as required by Rule 1260-2-.12 ADVERTISING and comply with 62-13-310(b) which limits the size of the individual agents name to letters of a size no larger than the letters spelling out the name of the firm.

**SECTION K. BRANCH OFFICES, HOME OFFICES, MODEL HOMES, MODULAR OFFICES**

**I maintain an office in my home. Is that allowed by TREC?**

A licensee can maintain an office in their home as long as the activity does not include any of the activities that require the location to be licensed as a branch office. Rule 1260-2-.03(3) OFFICES, provides the branch office specifications. A licensee may have the main office or branch office of a firm in their home if the zoning allows a real estate office at that location. The office must have a firm license and Principal Broker.

**I am the Principal Broker of a Firm. A new home builder wants licensees of my firm to work at a model home the builder has constructed in a new subdivision. Must the model home be licensed as a branch office? Can I have licensees there and advertise the model home as a sales office.**

Rule 1260-2-.03 OFFICES gives the specific things that trigger the requirement that an office obtain a branch office license (firm license). TREC allows the use of Model homes and Modular Homes under the following rules. A model home should not be referred to in advertising or on signs as a sales office.

**New Rules which became effective 10-14-06 read as follows:**

**Rule 1260-2-.03 Offices**

- (1) Signs. Each licensed real estate firm shall conspicuously display on the outside of the firm's place of business a sign which contains the name of the real estate firm as registered with the Commission.
- (2) Zoning. An application for a license or change of location shall be accompanied by a written certification (from the proper governmental authority) of compliance with zoning laws and ordinances.
- (3) Branch Offices.

- (a) For purposes of T.C.A. §62-13-309(d), a licensee is deemed to maintain a “branch” if the licensee:
  - 1. Advertises the office in any manner for the purpose of attracting the public;
  - 2. Has a mail drop at the office which is registered with and served by the United States Postal Service; or
  - 3. Invites or solicits telephone calls to the office (by such means as advertising or listing in a telephone directory).
- (b) Model Homes and Modular Units. A model home may be utilized in a subdivision or on a commercial lot and a modular unit may be utilized in subdivision which are under construction for purposes of soliciting business and will not be required to be licensed as a branch office as long as the model home or modular unit meets the following requirements:
  - 1. The model home or modular unit location and/or telephone number is only advertised in conjunction with advertising the main firm office and such advertising complies with the statutes, rules and regulations of the Commission;
  - 2. The model home or modular unit does not have a mail drop;
  - 3. The model home or modular unit is not the sole sales office for the firm;
  - 4. The model home or modular unit is not utilized to allow unlicensed activity by individuals in performing any of the acts requiring licensure under T.C.A. §62-13-101, et seq; and
  - 5. The principal broker of the main firm office shall adequately supervise licenses operating from model homes or modular units as required by T.C.A. § 62-13-312 and any rules promulgated thereunder.

#### **SECTION L. ADMINISTRATIVE CHANGES: CHANGE OF INDIVIDUAL NAME AND/OR ADDRESS; CHANGE OF FIRM NAME AND/OR ADDRESS**

##### **How do I?**

Transfer to a New Firm?

Change my Name recorded with the Commission?

Change my residence address recorded with the Commission?

Change my firm name as recorded with the Commission?

Inactivate, Retire or Reactivate my license? Also, see Section E.  
Change the firm's business address as recorded with the Commission?

The Commission has developed the TREC Form 1, ([available here](#)), to accomplish all these tasks. The form should be completed as indicated and returned to the Commission with a check or money order to cover all the requests as stated on the form. For some changes other documents are required. The instructions are found either on the back of the TREC 1 form or on the second page if the form is downloaded.